

Conference Engrossed

FILED

**JANICE K. BREWER
SECRETARY OF STATE**

State of Arizona
House of Representatives
Forty-eighth Legislature
First Regular Session
2007

CHAPTER 244

HOUSE BILL 2148

AN ACT

AMENDING SECTION 38-745, ARIZONA REVISED STATUTES; AMENDING SECTION 38-745, ARIZONA REVISED STATUTES, AS AMENDED BY THIS ACT; RELATING TO THE ARIZONA STATE RETIREMENT SYSTEM.

(TEXT OF BILL BEGINS ON NEXT PAGE)

Be it enacted by the Legislature of the State of Arizona:

Section 1. Section 38-745, Arizona Revised Statutes, is amended to read:

38-745. Credit for military service

A. An active member of ASRS or a member who is receiving benefits pursuant to section 38-797.07 may purchase credited service in ASRS for active military service if both of the following apply:

1. The member was honorably separated from the military service.
2. The member submits a copy of the member's military service record (DD-214) or its equivalent with the member's application for military service credit.

B. The cost to purchase military service credit is an amount equal to the present value of the additional benefit that is derived from the purchased credited service using the actuarial assumptions that are approved by the board.

C. An active member of ASRS who is called to active military service may receive credited service for not more than sixty months of active military service, except as provided by the uniformed services employment and reemployment rights act (38 United States Code section 4312(c)). The member's employer shall make employer contributions and member contributions for the member if the member meets the following requirements:

1. Was an active member of ASRS on the day before the member began active military service.

2. Is a member of the Arizona national guard or is a member of the reserves of any military establishment of the United States.

3. Volunteers or is ordered into active military service of the United States as part of a ~~presidential~~ MILITARY call-up.

4. ONE OF THE FOLLOWING OCCURS:

- (a) Is honorably separated from active military service and returns to employment for the same employer from which the member left for active military service within ninety days after the date active military service is terminated. —

- (b) Is hospitalized as a result of military service and returns to employment for the same employer from which the member left for active military service within ninety days after release from service related hospitalization. or

- (c) BECOMES DISABLED AS A RESULT OF OR DURING THE MILITARY SERVICE AND IS UNABLE TO RETURN TO THE SAME EMPLOYER.

- (d) Dies as a result of OR DURING the military service.

D. Contributions made pursuant to subsection C of this section shall be for the period of time beginning on the date the member began active military service and ending on THE LATER OF one of the following dates:

1. The date the member is separated from active military service.

1 2. The date the member is released from service related
2 hospitalization or one year after initiation of service related
3 hospitalization, whichever date is earlier.

4 3. ONE YEAR AFTER THE DATE OF DISABILITY.

5 ~~3-~~ 4. The date the member dies as a result of OR DURING active
6 military service.

7 E. Notwithstanding any other law, on payment of the contributions made
8 pursuant to subsection C of this section, the member shall be credited with
9 service for retirement purposes for the period of time of active military
10 service of not more than sixty months.

11 F. The employer shall make contributions pursuant to subsection C of
12 this section as follows:

13 1. Contributions shall be based on the compensation that a member
14 would have received but for the period that the member was ordered into
15 active military service.

16 2. If the employer cannot reasonably determine a member's rate of
17 compensation for the period that the member was ordered into active military
18 service, the employer shall make contributions based on the member's average
19 rate of compensation during the twelve-month period immediately preceding the
20 period of active military service.

21 3. If a member has been employed less than twelve months before being
22 ordered into active military service, the employer shall make contributions
23 based on the employment period immediately preceding the period of active
24 military service.

25 4. Employer contributions shall be made in a lump sum and without
26 penalty when the member returns to employment, WHEN IT IS DETERMINED THAT THE
27 MEMBER IS UNABLE TO RETURN TO EMPLOYMENT BECAUSE OF A DISABILITY AS A RESULT
28 OF OR THAT OCCURRED DURING MILITARY SERVICE or on receipt of the member's
29 death certificate. If a member suffers a service related death, the employer
30 shall make the employer and member contributions up to and including the date
31 of the member's death. Death benefits shall be calculated as prescribed by
32 law.

33 G. In computing the length of total credited service of a member for
34 the purpose of determining retirement benefits or eligibility, the period of
35 military service, as prescribed by this section, shall be included.

36 H. Notwithstanding any other law, the member is not required to
37 reimburse the member's employer or ASRS for any contribution made pursuant to
38 subsection C of this section.

39 I. In addition to, but not in duplication of, the provisions of
40 subsection C of this section, contributions, benefits and credited service
41 provided pursuant to this section shall be provided in accordance with
42 section 414(u) of the internal revenue code.

1 Sec. 2. Section 38-745, Arizona Revised Statutes, as amended by
2 section 1 of this act, is amended to read:

3 38-745. Credit for military service

4 A. An active member of ASRS or a member who is receiving benefits
5 pursuant to section 38-797.07 may purchase credited service in ASRS for
6 active military service if both of the following apply:

7 1. The member was honorably separated from the military service.

8 2. The member submits a copy of the member's military service record
9 (DD-214) or its equivalent with the member's application for military service
10 credit.

11 B. The cost to purchase military service credit is an amount equal to
12 the present value of the additional benefit that is derived from the
13 purchased credited service using the actuarial assumptions that are approved
14 by the board.

15 C. An active member of ASRS who is called to active military service
16 may receive credited service for not more than sixty months of active
17 military service, except as provided by the uniformed services employment and
18 reemployment rights act (38 United States Code section 4312(c)). The
19 member's employer shall make employer contributions and member contributions
20 for the member if the member meets the following requirements:

21 1. Was an active member of ASRS on the day before the member began
22 active military service.

23 2. Is a member of the Arizona national guard or is a member of the
24 reserves of any military establishment of the United States.

25 3. Volunteers or is ordered into active military service of the United
26 States as part of a military call-up.

27 4. One of the following occurs:

28 (a) Is honorably separated from active military service and returns to
29 employment for the same employer from which the member left for active
30 military service within ninety days after the date active military service is
31 terminated.

32 (b) Is hospitalized as a result of military service and returns to
33 employment for the same employer from which the member left for active
34 military service within ninety days after release from service related
35 hospitalization.

36 ~~(c) Becomes disabled as a result of or during the military service and~~
37 ~~is unable to return to the same employer.~~

38 ~~(d)~~ (c) Dies as a result of or during the military service.

39 D. Contributions made pursuant to subsection C of this section shall
40 be for the period of time beginning on the date the member began active
41 military service and ending on the later of one of the following dates:

42 1. The date the member is separated from active military service.

43 2. The date the member is released from service related
44 hospitalization or one year after initiation of service related
45 hospitalization, whichever date is earlier.

1 ~~3. One year after the date of disability.~~

2 ~~4.~~ 3. The date the member dies as a result of or during active
3 military service.

4 E. Notwithstanding any other law, on payment of the contributions made
5 pursuant to subsection C of this section, the member shall be credited with
6 service for retirement purposes for the period of time of active military
7 service of not more than sixty months.

8 F. The employer shall make contributions pursuant to subsection C of
9 this section as follows:

10 1. Contributions shall be based on the compensation that a member
11 would have received but for the period that the member was ordered into
12 active military service.

13 2. If the employer cannot reasonably determine a member's rate of
14 compensation for the period that the member was ordered into active military
15 service, the employer shall make contributions based on the member's average
16 rate of compensation during the twelve-month period immediately preceding the
17 period of active military service.

18 3. If a member has been employed less than twelve months before being
19 ordered into active military service, the employer shall make contributions
20 based on the employment period immediately preceding the period of active
21 military service.

22 4. Employer contributions shall be made in a lump sum and without
23 penalty when the member returns to employment, ~~when it is determined that the~~
24 ~~member is unable to return to employment because of a disability as a result~~
25 ~~of or that occurred during military service or on receipt of the member's~~
26 death certificate. If a member suffers a service related death, the employer
27 shall make the employer and member contributions up to and including the date
28 of the member's death. Death benefits shall be calculated as prescribed by
29 law.

30 G. In computing the length of total credited service of a member for
31 the purpose of determining retirement benefits or eligibility, the period of
32 military service, as prescribed by this section, shall be included.

33 H. Notwithstanding any other law, the member is not required to
34 reimburse the member's employer or ASRS for any contribution made pursuant to
35 subsection C of this section.

36 I. In addition to, but not in duplication of, the provisions of
37 subsection C of this section, contributions, benefits and credited service
38 provided pursuant to this section shall be provided in accordance with
39 section 414(u) of the internal revenue code.

40 Sec. 3. Retroactivity

41 Section 38-745, Arizona Revised Statutes, as amended by section 1 of
42 this act, applies retroactively to from and after June 30, 2007.

43 Sec. 4. Effective date

44 Section 38-745, Arizona Revised Statutes, as amended by section 2 of
45 this act, is effective from and after June 30, 2009.

APPROVED BY THE GOVERNOR JUNE 13, 2007.

FILED IN THE OFFICE OF THE SECRETARY OF STATE JUNE 14, 2007.